UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,940	09/27/2001	Syunichi Mukai	JP20000206US1	3357

7590 11/22/2004	EXAMINER
Jeanine S. Ray-Yarletts	VU, THONG H
IBM Corporation T81/503	

ART UNIT	PAPER NUMBER
2142	

P.O. Box 12195
Research Triangle Park, NC 27709

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/965,940	MUKAI, SYUNICHI
	Examiner	Art Unit	
	Thong H Vu	2142	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>27 September 2001</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-19</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-19</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>27 September 2001</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

1.   Claims 1-19 are pending.

Claim Objections

2.   Claims 4,7,8,11-18 are objected to under 37 CFR 1.75(c) as being in improper

form because a multiple dependent claim 1-3,10-13,10-16 See MPEP § 608.01(n).

Accordingly, the claims 4,7,8,11-18 are not been further treated on the merits.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3.   Claims 1-9 are rejected under 35 U.S.C. § 102(e) as being anticipated by

Mastronardi et al [Mastronardi 6,578,051 B1].

4.   As per claim 1, Mastronardi discloses a music distribution method for

downloading, in response to a request from a user, music data for one more musical

pieces (i.e.: songs) included in the latest hit charts (i.e.: an album) from a server storing

lot of music data, comprising the steps of:

determining whether music data to be downloaded from said server are already

stored in a terminal said user [Mastronardi, determine if the information in database

needs to be updated, col 7 line 42-col 8 line 30; col 24 lines 22-37];

and downloading, from said server to said terminal, only music data that are not stored in said terminal [Mastronardi, dowloaded any new songs, col 8 lines 30-46; col 11 lines 1-31; col 21 line 60-col 22 line 14].

5.   As per claim 2, Mastronardi discloses the music data to be downloaded are those which are ranked at the first to predetermined places on said latest hit charts and not stored in said terminal [the updated information in database including identifies each song, col 10 lines 29-42; the of album name, the main artist and the disk publisher, col 12 lines 20-33; song name, col 12 lines 41-58].

6.   As per claim 3, Mastronardi discloses downloading latest charts list including places, titles and singer names said terminal from said server [dowloaded any new songs, col 8 lines 30-46; col 11 lines 1-31; col 21 line 60-col 22 line 14]; and updating a hit charts list of the user stored in said terminal based on said latest hit charts list [determine if the information in database needs to be updated, col 7 line 42-col 8 line 30; col 24 lines 22-37].

7.   As per claim 4 Mastronardi discloses deleting music data that stored in said terminal and are not included in said latest charts [deletion of an album, col 15 lines 3-8; delete information in the database, col 19 lines 16-26; deletion of a table in master catalogue, col 22 lines 14-34; the program was deleted from the jukebox, col 23 lines 7-16].

8.   As per claim 5 Mastronardi discloses said step of determining whether music

data to be downloaded from said server are already stored in a terminal of said user

includes the step of comparing the titles musical pieces on said latest hit charts list with

those said hit charts list held in said user terminal [the filters, col 2 lines 54-64. It was

obvious the filter contains a condition to compare data].

9.   As per claim 6 Mastronardi discloses said step determining whether music data

to be downloaded from said server are already stored terminal of said user includes the

step of transmitting said charts of said user to said server, which then performs said

step of comparing the titles of musical pieces on said latest hit charts list with those on

said hit charts list held in said user terminal [the filters, col 2 lines 54-64].

10.   As per claim 7, Mastronardi discloses said terminal is a personal computer

[Mastronardi, a computer with a link to the server, col 1 lines 13-27].

11.   As per claim 8, Mastronardi discloses said terminal a portable terminal having a

music playback function (i.e.: a jukebox or computing device with the management of

computer files or operating parameter), one or more downloading terminals are

connected to said server via a network and said determining step and said downloading

step are performed by connecting said downloading terminal said portable terminal or a

storage medium to be loaded said portable terminal [a computer link to the host server

to download new songs, col 1 lines 12-28].

12.   As per claim 9, Mastronardi discloses downloading a latest hit charts list

including places, titles and singer names to said downloading terminals from said server

[identifies each song, col 10 lines 29-42; a promoter, col 11 lines 32-64; the of album

name, the main artist and the disk publisher, col 12 lines 20-33; song name, col 12 lines

41-58]; and updating hit charts list of the user stored in said portable terminal or said

storage medium based on said latest hit charts list [update by downloading of new

songs, col 11 lines 1-31].

13.   Claims 10-19 contain the similar limitations set forth of claims 1-9. Therefore,

claims 10-19 are rejected for the similar rationale set forth in claims 1-9.

14.   Any inquiry concerning this communication or earlier communications from the
examiner should be directed to examiner Thong Vu, whose telephone number is (571)-
272-3904.
The examiner can normally be reached on Monday-Thursday from 7:00AM- 3:30PM.
       If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, *Jack Harvey*, can be reached at (571) 272-3896.
       Any inquiry of a general nature or relating to the status of this application should
be directed to the Group receptionist whose telephone number is (703) 305-9700.
       Any response to this action should be mailed to: Commissioner of Patent and
Trademarks, Washington, D.C. 20231 or faxed to :
                      After Final   (703) 746-7238
                      Official: (703) 746-7239
                      Non-Official   (703) 746-7240
       Hand-delivered responses should be brought to Crystal Park 11,2121 Crystal
Drive, Arlington. VA., Sixth Floor (Receptionist).

Thong Vu
Patent Examiner
Art Unit 2142